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FLIESLER MEYER LLP 650 CALIFORNIA STREET, 14TH FLOOR SAN FRANCISCO, CA 94108		EXAMINER ORTIZ RODRIGUEZ, CARLOS R		
		ART UNIT 2125		PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/659,932

Applicant(s)

KENNEDY ET AL.

Examiner

Carlos Ortiz-Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/06/07.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-15,17-31,34-57,59-85,87-171 and 174-196 renumbered as 1, 2-14, 15-29, 30-53, 54-80, 81-165, and 166-188, respectively. is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/06/07.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1,3-15,17-31,34-57,59-85,87-171 and 174-196 renumbered as 1, 2-14, 15-29, 30-53, 54-80, 81-165, and 166-188, respectively..

DETAILED ACTION

1. Regarding the claim numbering, the numbering referred to in this action corresponds to the original numbering.
2. Please see previous "Notice of Allowability" mailed 12/19/06 for examiner's amendment clarifying proper claim dependency.
3. Amendment to the Specification filed 10/18/06 is considered and entered.
4. It should be noted that during a telephone conversation the examiner identified "trademarks" (DOE-2 and EnergyPlus) in claims 19, 47, 75, 159 and 187. Applicant's representative proposed amendments to said claims. Said amendments are acceptable. Please amend claims correspondingly.
5. It should also be noted that claims 182 and 183 seem to be duplicate claims. Appropriate correction is required.

Claim Interpretation

6. Regarding claims 4, 9, 10, 11, 17, 20, 24, 25, 26, 37, 38, 39, 45, 48, 52, 60, 65, 66, 67, 73, 76, 80, 96, 97, 98, 110, 111, 114, 119, 120, 122, 129, 133, 134, 138, 144, 149, 150, 151, 157, 160, 164, 177, 178, 179, 185, 188 and 192 the recitation that an element "can include" is considered a non-positive limitation. A recitation directed to what an element "can include" does not distinguish the claimed element from the prior art, but only requires the ability to so include. It should be noted that prior art of record possesses said ability.
7. Regarding claims 5, 6, 7, 18, 19, 29, 33, 46, 47, 53, 54, 61, 63, 74, 75, 81, 88, 92, 94, 104, 108, 126, 132, 140, 141, 145, 147, 158, 159, 165, 166, 169, 173, 175, 186, 187,

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193 and 194 the recitation that an element “can be” is considered a non-positive limitation. A recitation directed to what an element “can be” does not distinguish the claimed element from the prior art, but only requires the ability to so include. It should be noted that prior art of record possesses said ability.

8. Regarding claims 12, 40, 68, 99, 112, 152 and 180 the recitation that an element “can apply” is considered a non-positive limitation. A recitation directed to what an element “can apply” does not distinguish the claimed element from the prior art, but only requires the ability to so include. It should be noted that prior art of record possesses said ability.

9. Regarding claims 25, 26, 53, 54, 81, 165, 166, 193 and 194 the recitation that an element “can cause” is considered a non-positive limitation. A recitation directed to what an element “can cause” does not distinguish the claimed element from the prior art, but only requires the ability to so include. It should be noted that prior art of record possesses said ability.

10. Regarding claims 28, 56, 84, 168 and 196 the recitation that an element “can allow” is considered a non-positive limitation. A recitation directed to what an element “can allow” does not distinguish the claimed element from the prior art, but only requires the ability to so include. It should be noted that prior art of record possesses said ability.

11. Regarding claims 103 the recitation that an element “can result” is considered a non-positive limitation. A recitation directed to what an element “can result” does not distinguish the claimed element from the prior art, but only requires the ability to so include. It should be noted that prior art of record possesses said ability.

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12. Regarding claims 141 the recitation that an element is “operable to” perform a function is not a positive limitation but only requires the ability to so perform. A recitation directed to the manner in which a claimed element is intended to be used does not distinguish the claimed element from the prior art.

Claim Rejections - 35 USC § 101

13. Please refer to the “claim interpretation” stated above.

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

15. Claims 140-168 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The Preamble of independent claims 140 and 141 are directed towards a system however the body of the claim is directed towards software per se. It appears reasonable to interpret the “defaults component” and the “analyzer component” as software per se.

Claim Rejections - 35 USC § 102

16. Please refer to the “claim interpretation” stated above.

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

18. Claims 29-31, 34-52, 85, 87-102, 126-164, 169-171, and 174-192 are rejected under 35 U.S.C. 102 (a) as being anticipated by California Energy Commission, "Conceptual Design Energy Analysis Tool (CDEAT) Research & Development - Final Report, June 2002 (Referred to as "Final Report").

Regarding claims 29-31, 34, 36-38, 40, 47-52, 85, 89-92, 95-100, 126-131, 133-146, 148-150, 152-153, 159-164, 169-171, 174, 176-181 and 187-192 Final Report discloses a method of analyzing the energy requirements of a building using a computer network, comprising: providing a first representation of the building wherein the first representation is available on the computer network, and wherein the first representation is a comprehensive and accurate geometric representation of the building (Final Report, Page 12, Fig 1, "Build Mono-Planar Model & Export using gbXML elements", Page 30); automatically providing default values for the first representation appropriate for performing an energy simulation of the building wherein the default values include one or more of: 1) heating ventilation and air conditioning equipment (HVAC); 2) whether-related information; 3) interior/exterior constructions, 4) interior/exterior lighting equipment; 5) schedules of operations for interior/exterior lights; 6) interior/exterior equipment; 7) schedules of operations for interior/exterior equipment; 8) air flow information; 9) schedules of operations for heating, ventilation and/or air conditioning equipment; 10) number of people; 11) schedules of occupancy for people; and 12) any additional information necessary to conduct a building energy analysis;

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performing an energy analysis of the building based on the first representation and the default values; providing results of the energy analysis wherein the results are available on the computer network; and wherein the default values can be based on at least one of: 1) type of the building; 2) geographical location of the building; 3) size of the building; and 4) applicable energy codes (Final Report, Fig 1 and 2 and Page 15).

For further support regarding default values see Hong et al., "Building simulation: an overview of developments and information sources", Elsevier Science, 2000, Page 348 and Table 1.

Regarding claim 35, 94, 132, 147 and 175, Final Report discloses the first representation of the building can be in one of the following forms: 1) Extensible Markup Language (XML); 2) Green Building XML (gbXML); and 3) International Alliance for Interoperability Industry Foundation Classes (Final Report, Page 14).

Regarding claim 39, 98, 151 and 179, Final Report discloses that the results of the energy analysis can include at least one of: 1) energy cost over a period of time; 2) peak demand over a period of time; 3) fuel use over a period of time; 4) electricity use over a period of time; 5) airflow requirements over a period of time; 6) comfort level over a period of time; 7) temperatures over a period of time; 8) cooling equipment sizes; 9) whether or not a building complies with applicable energy codes; 10) what needs to be done in order to bring a building into conformance with applicable energy codes; 11) heating equipment sizes; and 12) any information in the first representation and/or the default values provided for the first representation is inherent to

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Final Report (Final Report, Page 16, "TRACE").

Regarding claim 41, Final Report discloses that the results of the energy analysis are persisted (Final Report, Page 14, "Server/Database").

Regarding claim 42, 101-102, 154-155 and 182-183, Final Report discloses incorporating the results of the energy analysis into a second representation of the building, wherein the second representation of the building is based on the first representation (Final Report, Fig. 1, "Read in files from gbXML file").

Regarding claim 43 and 93, Final Report discloses incorporating the results of the energy analysis into a second representation of the building, wherein the second representation of the building is based on the first representation (Final Report, Fig. 1, "Read in files from gbXML file").

Regarding claim 44, 156 and 184, Final Report discloses utilizing the results of the energy analysis to optimize the first representation of the building is inherent to Final Report.

Regarding claims 45-46, 87-88, 157-158 and 185-186 Final Report discloses optimization can include optimizing at least one of the following parameters: 1) building orientation; 2) glazing; 3) construction materials; 4) heating air conditioning

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and/or ventilation systems; 5) lighting and light control schemes; and 6) any information in the first representation (Final Report, Page 15)

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

20. Claims 103-105 and 114-115 are rejected under 35 U.S.C. 102 (e) as being anticipated by Ananian et al. U.S. Patent No. 6,922,701.

Regarding claim 103, Ananian et al. discloses a method for allowing a user to interact with content including product and service advertisements or product placement on building instance for analysis, using a computer network, comprising: automatically providing the content to the user based on a set of criteria associated with the building characteristics including its energy use information, and wherein at least one of the criteria is satisfied based on a representation of a building and/or results of an energy

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analysis of the representation of the building; allowing the user to interact with the content; and wherein the interaction can result in at least one of: 1) a request for information; 2) a request for a bid; 3) permission to access information associated with the user; 4) providing permission to access information associated with the representation of the building and/or results of the energy analysis (Fig 1, C14, C19 L35-67, C22 L53-67 and C23 L1-20).

Regarding claim 104, Ananian et al. discloses permission to access information can be given for an aggregate view of the information or for the entirety of the information (C14 L45-55).

Regarding claims 105, 114 and 115 Ananian et al. discloses that the content is provided to the user via the World Wide Web (C16 L22-33).

21. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

22. Claims 116-125 are rejected under 35 U.S.C. 102 (e) as being anticipated by Shanahan et al. U.S. Pub. No. 2005/0022114.

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Regarding claim 116-118 and 120-125, Shanahan et al. discloses a method for generating a qualified result list based on a building representation and using a computer network, comprising: maintaining a database of at least one information provider, wherein each of the at least one information providers has associated with it a set of building criteria (relevance) and content; identifying a result set of the at least one information providers that have criteria (relevance) at least partially satisfied by the building representation and/or an energy analysis of the building representation; ranking the information providers in the result set into a result list (Paragraph 237 and 272); and providing content via the computer network corresponding to at least the highest ranked information provider in the result list (Paragraph 312).

Regarding claim 119, Shanahan et al. discloses that content can include at least one of: 1) a uniform resource locator (URL); a hypertext markup language (HTML) document; 3) an extensible markup language (XML) document; 4) an audio/visual presentation; 5) text; and 6) an image (Paragraph 61).

Claim Rejections - 35 USC § 103

23. Please refer to the “claim interpretation” stated above.

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claims 1, 3-15, 17-24, 57 and 59-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over California Energy Commission, “Conceptual Design Energy Analysis Tool (CDEAT) Research & Development - Final Report, June 2002 (Referred to as “Final Report”) in view of Hong et al., “Building simulation: an overview of developments and information sources”, Elsevier Science, 2000 and in view of Shanahan et al. U.S. Pub. No. 2005/0022114.

Regarding claims 1, 8-12, 18-24, 57, 59, 64-69, 72 and 74-80, Final Report et al. discloses a method of analyzing the energy requirements of a building using a computer network, comprising: under control of a first process (Final Report, “3D-CAD Application process”): providing a first representation of the building, wherein the first representation of the building includes a complete and detailed geometry of: the building, spaces in the building, building surfaces and building openings (Final Report, Page 12, Fig 1, “Build Mono-Planar Model & Export using gbXML elements”, Page 30); providing the first representation(Final Report, Page 12, Fig 1, “Mono-Planar model enhanced with intelligent EAM defaults for energy analysis”) to a second process (Final

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Report, "Energy Analysis Module process") on the computer network; under control of the second process: performing an energy analysis of the building based on the first representation (Page 12, Fig 1 "Energy Analysis Module") by determining energy use and cost of the building using information that includes one or more of the building's geographical location, three-dimensional geometry, construction materials utility rate schedule and HVAC equipment; providing results of the energy analysis wherein the results are available on the computer network (Final Report, Page 14, "DOE-2.2 and EnergyPlus"); and utilizing the results of the energy analysis in order to optimize the first representation of the building wherein optimizing includes performing one or more simulations while varying parameters of the first representation of the building (Final Report, Page 14, "DOE-2.2 and EnergyPlus"); wherein the first process and the second process can communicate using the computer network is an inherent characteristics to Final Report, Page 14, Fig 2).

But Final Report fails to clearly specify ranking the results.

However, Final report in combination with Shanahan et al. disclose ranking results of the simulations according to a predetermined criteria (Shanahan et al. Paragraph 237 and 272).

Therefore at time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the above invention suggested by Final Report and combining it with the invention disclosed by Shanahan et al. The results of this combination would lead to systems and methods for automatic energy analysis of buildings.

One of ordinary skill in the art would have been motivated to do this modification in order to filter out only the highest ranked result as suggested by Shanahan et al.

To further show support that DOE-2.2 and EnergyPlus are suitable simulators to perform and optimize the energy analysis based on the simulation parameters see (Hong et al., Page 349 and 351).

Regarding claim 3, Final Report in combination with Shanahan et al. further discloses the first representation is provided by a 3D-CAD or BIMA application (Final Report, Page 14, Fig 2).

Regarding claims 4, 17, 60 and 73, Final Report in combination with Shanahan et al. further discloses automatically providing default values for the first representation appropriate for performing an energy analysis of the building, wherein the default values can include at least one of: 1) heating, ventilation and/or air conditioning equipment; 2) weather-related information; 3) interior/exterior constructions; 4) interior/exterior lighting equipment; 5) schedules of operations for interior/exterior lights; 6) interior/exterior equipment; 7) schedules of operations for interior/exterior equipment; 8) air flow information; 9) schedules of operations for heating, ventilation and/or air conditioning equipment; 10) number of people; 11) schedules of occupancy for people; and 12) any additional information necessary to conduct a building energy analysis (Final Report, Page 15).

For further support regarding default values see Hong et al. Page 348 and Table 1.

Regarding claims 5 and 61, Final Report in combination with Shanahan et al. further discloses that the default values can be based on 1) building type; and 2) geographic location of the building (Final Report, Page 15).

Regarding claims 6 and 62, Final Report in combination with Shanahan et al. further disclose incorporating the default values into the first representation of the building (Final Report, Page 15).

Regarding claims 7 and 63, Final Report in combination with Shanahan et al. further disclose that the first representation of the building can be in one of the following forms: 1) Extensible Markup Language (XML); 2) Green Building XML (gbXML); and 3) International Alliance for Interoperability Industry Foundation Classes (Final Report, Page 14).

Regarding claim 13, Final Report in combination with Shanahan et al. further disclose that the results of the energy analysis are persisted (Final Report, Page 14, "Server/Database").

Regarding claims 14 and 70, Final Report in combination with Shanahan et al. further disclose incorporating the results of the energy analysis into a second representation of the building, wherein the second representation of the building is based

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on the first representation (Final Report, Fig. 1, "Read in files from gbXML file").

Regarding claims 15 and 71, Final Report in combination with Shanahan et al. further disclose incorporating the results of the energy analysis into a second representation of the building, wherein the second representation of the building is based on the first representation (Final Report, Fig. 1, "Read in files from gbXML file").

26. Claims 25, 26, 28, 81, 82 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over California Energy Commission, "Conceptual Design Energy Analysis Tool (CDEAT) Research & Development - Final Report, June 2002 (Referred to as "Final Report") in view of Hong et al., "Building simulation: an overview of developments and information sources", Elsevier Science, 2000 in view of Shanahan et al. U.S. Pub. No. 2005/0022114 and in view of Lam et al., "Distributed Web-Based Building Performance Computing: A Singapore-US Collaborative Effort", Seventh International IBPSA Conference, August 13-15, 2001.

Regarding claim 25 and 81, Final Report in combination with Shanahan et al. disclose all the limitations of the base claims.

But Final Report in combination with Shanahan et al. fail to clearly specify 1) user contact information; 2) information based on the first representation; 3) information based on the energy analysis results; and 4) information based on default values appropriate for performing an energy analysis of the building.

However, Final Report in combination with Shanahan et al. and Lam et al. disclose that an advertisement can be selected by a user; and wherein the selection can

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cause at least one of the following to be made accessible to a third party: 1) user contact information; 2) information based on the first representation; 3) information based on the energy analysis results; and 4) information based on default values appropriate for performing an energy analysis of the building (Lam et al., Page 809, "Hub And The Data Repository").

Therefore at time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the above invention suggested by Final Report in view of Shanahan et al. and combining it with the invention disclosed by Lam et al.

One of ordinary skill in the art would have been motivated to do this modification in order to provide multi-user accessibility as suggested by Lam et al.

Regarding claims 26, 28, 82 and 84, Final Report in combination with Shanahan et al. and Lam et al. further disclose that an advertisement can be selected by a user; and wherein the selection can cause the user to be prompted for permission to make accessible at least one of the following to a third party: 1) user contact information; 2) information based on the first representation; 3) information based on the energy analysis results; and 4) information based on default values appropriate for performing an energy analysis of the building (Lam et al., Page 809, "Hub And The Data Repository").

27. Claims 27 and 83, are rejected under 35 U.S.C. 103(a) as being unpatentable over California Energy Commission, "Conceptual Design Energy Analysis Tool (CDEAT) Research & Development - Final Report, June 2002 (Referred to as "Final Report") in view of Hong et al., "Building simulation: an overview of developments and information

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sources”, Elsevier Science, 2000 in view of Shanahan et al. U.S. Pub. No. 2005/0022114 and in view of Ananian et al., U.S. Patent No. 6,922,701.

Regarding claim 27 and 83, Final Report in combination with Shanahan et al. disclose all the limitations of the base claims.

But, Final Report in combination with Shanahan et al. fail to clearly specify requesting a bid from a third party based on at least one of: 1) the first representation; 2) the energy analysis results; and 3) default values appropriate for performing an energy analysis of the building.

However, Final Report in combination with Shanahan et al. and Ananian et al. disclose requesting a bid from a third party based on at least one of: 1) the first representation; 2) the energy analysis results; and 3) default values appropriate for performing an energy analysis of the building (Ananian et al., Fig 1, C14, C19 L35-67, C22 L53-67 and C23 L1-20).

Therefore at time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the above invention suggested by Final Report in view of Shanahan et al. and combining it with the invention disclosed by Ananian et al.

One of ordinary skill in the art would have been motivated to do this modification in order to match the appropriate service professional with a service needed by the user as suggested by Ananian et al.

28. Claims 53-54, 56, 165-166, 168, 193-194 and 196 are rejected under 35 U.S.C. 103(a) as being unpatentable over California Energy Commission, “Conceptual Design Energy Analysis Tool (CDEAT) Research & Development - Final Report, June 2002

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(Referred to as "Final Report") in view of Hong et al., "Building simulation: an overview of developments and information sources", Elsevier Science, 2000 and in view of Lam et al., "Distributed Web-Based Building Performance Computing: A Singapore-US Collaborative Effort", Seventh International IBPSA Conference, August 13-15, 2001.

Regarding claims 53, 165 and 193, Final Report discloses all the limitations of the base claims.

But, Final Report fails to clearly specify: 1) user contact information; 2) information based on the first representation; 3) information based on the energy analysis results; and 4) information based on default values appropriate for performing an energy analysis of the building

However, Final Report in combination with Lam et al. disclose that an advertisement can be selected by a user; and wherein the selection can cause at least one of the following to be made accessible to a third party: 1) user contact information; 2) information based on the first representation; 3) information based on the energy analysis results; and 4) information based on default values appropriate for performing an energy analysis of the building (Lam et al., Page 809, "Hub And The Data Repository").

Therefore at time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the above invention suggested by Final Report and combining it with the invention disclosed by Lam et al.

One of ordinary skill in the art would have been motivated to do this modification in order to provide multi-user accessibility as suggested by Lam et al.

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Regarding claim 54, 166 and 194, Final Report in combination with Lam et al. further disclose that an advertisement can be selected by a user; and wherein the selection can cause the user to be prompted for permission to make accessible at least one of the following to a third party: 1) user contact information; 2) information based on the first representation; 3) information based on the energy analysis results; and 4) information based on default values appropriate for performing an energy analysis of the building (Lam et al., Page 809, "Hub And The Data Repository").

Regarding claim 56, 168 and 196, Final Report in combination with Lam et al. further disclose that a first user can allow other users to access and/or manipulate at least one of: 1) the first representation; 2) the energy analysis results; and 3) default values appropriate for performing an energy analysis of the building (Lam et al., Page 809, "Hub And The Data Repository").

29. Claims 55, 167 and 195 are rejected under 35 U.S.C. 103(a) as being unpatentable over California Energy Commission, "Conceptual Design Energy Analysis Tool (CDEAT) Research & Development - Final Report, June 2002 (Referred to as "Final Report") in view of Hong et al., "Building simulation: an overview of developments and information sources", Elsevier Science, 2000 and in view of Ananian et al., U.S. Patent No. 6,922,701.

Regarding claims 55, 167 and 195, Final Report discloses all the limitations of the base claims.

But, Final Report fails to clearly specify: requesting a bid from a third party.

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However, Final report in combination with Ananian et al. disclose requesting a bid from a third party based on at least one of: 1) the first representation; 2) the energy analysis results; and 3) default values appropriate for performing an energy analysis of the building (Ananian et al., Fig 1, C14, C19 L35-67, C22 L53-67 and C23 L1-20).

Therefore at time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the above invention suggested by Final Report and combining it with the invention disclosed by Ananian et al.

One of ordinary skill in the art would have been motivated to do this modification in order to match the appropriate service professional with a service needed by the user as suggested by Ananian et al.

30. Claims 106-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ananian et al., U.S. Patent No. 6,922,701 in view of California Energy Commission, "Conceptual Design Energy Analysis Tool (CDEAT) Research & Development - Final Report, June 2002 (Referred to as "Final Report").

Regarding claim 106, Ananian et al. discloses all the limitations of the base claims.

But, Ananian et al. fails to clearly specify: performing an energy analysis.

However, Ananian et al. in combination with Final report disclose performing an energy analysis of the building representation (Final Report, Page 12, Fig 1).

Therefore at time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the above invention suggested by Ananian et al. and combining it with the invention disclosed by Final Report.

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One of ordinary skill in the art would have been motivated to do this modification in order to optimize the building analysis as suggested by Final Report.

Regarding claims 107 and 112-113, Ananian et al. in combination with Final Report further discloses incorporating default values into the first representation of the building (Final Report, Fig 1 and 2 and Page 15).

Regarding claim 108, Ananian et al. in combination with Final Report further discloses that the representation of the building can be in one of the following forms: 1) Extensible Markup Language (XML); 2) Green Building XML (gbXML); and 3) International Alliance for Interoperability Industry Foundation Classes (Final Report, Page 14).

Regarding claims 109-110, Ananian et al. in combination with Final Report further discloses that the representation of the building is at least one of: 1) compressed; 2) encoded; and 3) encrypted (Final Report, Fig 1 and 2 and Page 15).

Regarding claim 111, Ananian et al. in combination with Final Report further discloses that the results of the energy analysis can include at least one of: 1) energy cost over a period of time; 2) peak demand over a period of time; 3) fuel use over a period of time; 4) electricity use over a period of time; 5) airflow requirements over a period of time; 6) comfort level over a period of time; 7) temperatures over a period of time; 8) cooling equipment sizes; 9) whether or not a building complies with applicable energy

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codes; 10) what needs to be done in order to bring a building into conformance with applicable energy codes; 11) heating equipment sizes; and 12) any information in the representation and/or any default values provided for the first representation(Final Report, Page 16, "TRACE").

Citation of Pertinent Prior Art

31. The following prior art made of record is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to systems and methods for automatic energy analysis of buildings:

- a. U.S. Patent No. 4,885,694 to Pray et al., which discloses automated building control design system.
- b. U.S. Patent No. 6,134,511 to Subbarao which discloses method and apparatus for improving building energy simulations.
- c. U.S. Patent No. 6,446,053 to Elliot, which discloses computer-implemented method and system for producing a proposal for a construction project.
- d. U.S. Patent No. 6,701,281 to Satoh et al. which discloses method and apparatus for analyzing building performance.

The following publications are cited to further show the state of the art with respect to systems and methods for automatic energy analysis of buildings:

- e. U.S. Pub. No. 2002/0035408 to Smith, which discloses system and process for client-driven automated computer-aided drafting.
- f. U.S. Pub. No. 2002/0049786 to Bibliowicz et al. which discloses collaboration framework.

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g. U.S. Pub. No. 2003/0135557 to Davis, which discloses distributed revision block service.

h. U.S. Pub. No. 2003/0208341 to Simmons et al. which discloses heating and ventilation and air-conditioning design apparatus and method.

i. U.S. Pub. No. 2003/0217275 to Bentley et al., which discloses digital signatures.

j. U.S. Pub. No. 2004/0181374 to Rappaport et al. which discloses system and method for creating formatted building database.

k. U.S. Pub. No. 2005/0132305 to Guichard et al., which discloses electronic information access systems.

l. U.S. Pub. No. 2005/0137921 to Shahriari which discloses method for evaluating the costs and benefits of environmental construction projects.

m. Crawley et al., "What next for building energy simulation- A glimpse of the future.

n. "Building Energy Simulation User News", Volume 20, Number 4, Winter 1999.

o. Musy et al., "Building air-flow simulations: automatically-generated zonal models", Seventh International IBPSA Conference, August 13-15, 2001.

p. Bazjanac et al., "Acquisition of building geometry in the simulation of energy performance", 2001 Building Simulation Conference in Rio de Janeiro, Brazil, August 13-15, 2001.

q. Wetter, Michael, "GenOpt – A generic Optimization Program", IBPSA Building Simulation Conference, August 13-15, 2001

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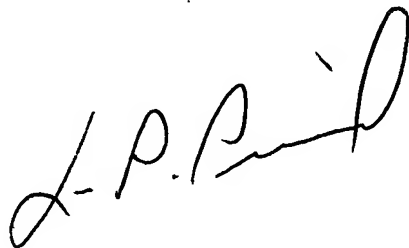
Conclusion

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Ortiz-Rodriguez (**new examiner of record**) whose telephone number is **571-272-3677**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 30, 2007



Carlos Ortiz-Rodriguez
Patent Examiner
Art Unit 2125

LEO PICARD
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